Senate Bill No. 1439

Passed the Senate August 17, 2004

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Secretary of the Senate

Passed the Assembly August 12, 2004

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Chief Clerk of the Assembly

This bill was received by the Governor this ________ day of _______________________, 2004, at ______ o'clock __M.

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Private Secretary of the Governor

CHAPTER ________

An act to amend Section 21224 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1439, Speier. Public employees' retirement: state retired annuitants.

Existing law generally requires a retired member of the Public Employees' Retirement System to reinstate from retirement if he or she is reemployed by a state agency or other employer under the system. However, existing law also authorizes a retired member to work for a state agency or other employer under the system for up to 960 hours in any calendar year, without reinstatement from retirement or loss or interruption of retirement benefits, if certain conditions exist.

This bill would make that authorization inapplicable to a retired member who is employed by an employer under the system and who, within 12 months prior to that employment, received unemployment insurance compensation following the termination of an appointment with the same employer. The retired member would not be reinstated from retirement but, instead, would be required to terminate that employment and would be ineligible for that employment for a period of at least 12 months. The bill would make related findings and declarations.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) Existing provisions of the Public Employees' Retirement Law authorize retired members of the Public Employees' Retirement System to return to work for limited appointments, of up to 960 hours in a calendar year, with one or more state agencies or other employers under the system, without reinstatement from retirement or loss or interruption of benefits.

(b) This provision of existing law provides state agencies and other public employers with the ability to utilize the unique skills of those retired members and to address emergency workflow situations for a limited time. This provision also provides an advantage to retired members in that a retired member may return to work, receive compensation for that work, and continue to receive his or her retirement allowance.

(c) Administration of this program has, in the past, been subject to abuse. Among these abuses has been the practice, by certain retired members, of collecting unemployment insurance compensation after the retired member has worked 960 hours in a calendar year. As a result, in a given year, a retired member of the system may collect three public stipends: a retirement allowance, a salary for up to 960 hours of work in a calendar year, and unemployment insurance compensation after that 960-hour limit has been reached. The Legislature believes that this ‘‘triple dipping’’ process is inappropriate and a violation of the public trust.

(d) It is the intent of the Legislature that managers of state agencies and departments and other public employers shall be responsible for this abuse by retired members of the system. Appointing powers of state agencies and other employers under the Public Employees’ Retirement System, whose retired appointees have abused the system, should not be permitted to appoint any retired members in the immediate term.

SEC. 2. Section 21224 of the Government Code is amended to read:

21224. (a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or any other employer either during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing work of limited duration. These appointments shall not exceed a total for all employers of 960 hours in any calendar year, and the rate of pay for the employment shall not be less than the minimum, nor exceed that paid by the employer to other employees ma performing comparable duties.

(b) (1) This section shall not apply to any retired person otherwise eligible if during the 12-month period prior to an appointment described in this section the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

Approved ______________________________, 2004

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Governor